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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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11/11/00

EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

11/11/00

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 15

Application Number: 09/325,311
Filing Date: June 3, 1999
Appellant(s): Curtis Shoup

MAILED

OCT 01 2001

GROUP 3700

Charles Thomas
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed July 23, 2001.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

Art Unit:

3,892,939	Medley	7-1975
2,197,982	O'Brien	4-1940
5,018,263	Stern	5-1991
5,549,352	Janotik et al.	8-1996

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 7 and 13 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office action, Paper No. 12.

Claims 4, 5, 11, 14 and 15 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office action, Paper No. 12.

Claims 6, 12, 16 and 17 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office action, Paper No. 12.

Art Unit:

(11) Response to Argument

Appellant argues that "there is no disclosure in the O'Brien reference as to whether the T-shaped member and the grid members 9 are arc welded, spot welded, or welded by any other means". The Examiner respectively disagrees because it is noted that welds 10 and 15 in O'Brien secure T-shaped member 4 to grid member 9 as shown in Figures 5 and 6.

Appellant also argues that there are numerous fallacies in the Examiner's position that "the longitudinal bar 18 of the Medley reference is "equivalent" to either the stile of rail members claimed, and that the O'Brien reference shows "tubular members" 9 which are "equivalent" to Applicant's security bars being welded to another structural member, 4, 13, 17, or 19 which is "equivalent" to stile members or the rail members...". It should be noted that a fair reading of the claim language permits the Examiner to interpret Medley's bars 12 are "equivalent" to the security bars as claimed and longitudinal member 18 are "equivalent" to either the stile members or rail members as claimed, since both bars 12 and longitudinal member 18 have similar structural composition (i.e., metal) and shape (i.e., square and/or rectangle) as compare to the security bars, stile members, and/or rail members as claimed. Furthermore, it should be noted that a fair reading of the claim language permits the Examiner to interpret O'Brien's members 9 are "equivalent" to the security bars as claimed and structural members 4, 13, 17, 19 are "equivalent" to either the stile members or rail members as claimed, since both members 9 and structural members 4, 13, 17, 19 have similar structural

Art Unit:

composition (i.e., metal) and shape (i.e., square and/or rectangle) as compare to the security bars, stile members, and/or rail members as claimed.

Appellant argues that the Medley reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, it is noted that Medley is in the same field of endeavor as Appellant, i.e., the field of fabricating structural frame components which can be used as a security means, namely either as a door or a window. In addition, the Medley reference is reasonably pertinent to a problem with which Appellant was concerned and therefore it is from an analogous art. One of ordinary skill in the art, when faced with Appellant's problem, would have been sought out reference, such as Medley, that pertain to Appellant's problem.

Appellant also argues that O'Brien is not directed to the field of security door fabrication, but rather to the field of shelf or rack for refrigerators. The Examiner agrees. However, the reference O'Brien was merely cited to show the teaching of connecting metal structural members together by using receiving apertures/openings and projecting flanges wherein structural members are being inserted into receiving apertures/openings as well as resided on the flanges so that a securing step, namely welding, can be performed.

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Appellant further argues that O'Brien does not teach creating a plurality of openings. The Examiner disagrees. It is noted that a fair reading of the claim language permits the Examiner to interpret that Figure 6 of O'Brien teaches the step of positioning member 9 to project through the receiving opening in member 13 so that the end of member 9 terminates within member 13.

Appellant also argues that the Stern reference adds nothing to the acknowledged prior art. It is noted that Stern was merely cited to show the teaching of "punching", "cutting", "rolling", "crimping", and "bending" a sheet metal strip into desirable shape and/or size.

Appellant further argues that Janotik et al. is not directed to the field of security door, but rather to the field of automotive vehicles. The Examiner agrees. However, the reference Janotik was merely cited to show the teaching of providing an access opening within a frame member so that a spot welding tool can be inserted therein in order to perform a welding process.

Allowable Subject Matter

1. Claims 3, and 8-10 are allowed.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Irene Cuda-Rosenbaum

Art Unit:

Conferee: ^{PWE} Poss Echols, Primary Patent Examiner

ttn ^{ITN}
September 30, 2001

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Au 3720

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Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.

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